

Message Text

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ACTION NEA-12

INFO OCT-01 ADP-00 EB-11 L-03 COME-00 CIAE-00 INR-09

NSAE-00 RSC-01 OPIC-12 XMB-07 INT-08 RSR-01 /065 W

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R 121345 Z MAR 73

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 3116

AMEMBASSY KABUL

INFO AMEMBASSY TEHRAN

LIMITED OFFICIAL USE NEW DELHI 2843

DEPT PASS BUMINES: FOR NAHAI AND BOWEN

E. O. 11652: N/A

TAGS: EMIN, AF

SUBJECT: DRAFT MINERAL LAWS -- AFGHANISTAN

REF : A) KABUL 1321; B) STATE 44428

1. SUMMARY. SWEETWOOD MET SEPARATELY WITH PHILIPP BROTHERS AND KENNECOTT REPS IN NEW YORK JAN 19, TO DISCUSS COPPER POTENTIAL IN AFGHANISTAN AND OUTLOOK FOR INVESTMENT VIS- A- VIS MINING LAW CONSIDERATIONS. EARLIER, MINATT REQUESTED LEGAL OPINIONS FROM BUMINES AND BLM ON AFGHAN DRAFT MINING AND PETROLEUM LAWS. THESE REPORTS ARE ANTICIPATED SOON. END SUMMARY.

2. DURING JAN 19 PHILIPP BROTHERS MEETING, VICE PRESIDENT FRITZ LEVY STATED HE HAD RECEIVED COPY OF " FIRST DRAFT" AFGHAN MINING LAW (REF A) AND EXPRESSED HOPE THAT " FINAL DRAFT" COULD BE IMPROVED TO BETTER DEFINE ROLE OF FOREIGN INVESTORS AS PARTICIPATING PARTNERS OF RGA AND/ OR PRIVATE AFGHAN INTERESTS. HE AGREED TREAT THIS VERSION OF DRAFT MINING LAW WITH DISCRETION IN LIGHT OF POSSIBLE FUTURE REVISIONS. MINATT DID NOT RPT NOT DISPLAY OR LOAN COPIES OF AFGHAN MINING AND PETROLEUM LAWS TO KENNECOTT OFFICIALS. KENNECOTT REPS ARE, HOWEVER, AWARE THAT RGA PARLIAMENT MAY LIMITED OFFICIAL USE

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SOON CONSIDER LEGISLATION THIS REGARD AND SAID THEY WOULD MAKE EVERY EFFORT TO REMAIN IN COMMUNICATION WITH PRESIDENT OF MINES

AND GEOLOGY MIRZAD.

3. MINATT REVIEWED CURRENT DRAFTS OF AFGHAN MINING AND PETR AND OTHERS GROUP) JAPAN, UK, US AND AUSTRALIA INDICATED PREFERENCE FOR TWO GROUPS BUT WILLINGNESS TO ACCEPT ONE GROUP. MALTA, AUSTRIA, HUNGARY AND CZECHOSLOVAKIA SPOKE IN FAVOR OF TWO GROUPS AND OPPOSED SINGLE WORKING GROUP. BYELORUSSIA REQUESTED OPPORTUNITY FOR EASTERN EUROPEANS GROUP TO MEET AND CHAIRMAN INDICATED THAT ISSUE WOULD BE HELD OVER UNTIL AFTERNOON MEETING FOR DECISION.

3. JAPAN, UK AND AUSTRIA SPECIFICALLY INDICATED NECESSITY TO INCLUDE ALL RESOURCE ITEMS, PARTICULARLY ITEM 6 ON EXCLUSIVE ECONOMIC ZONE AND ITEM 7 ON PREFERENTIAL COASTAL STATE RIGHTS IN SAME WORKING GROUP. SEVERAL OTHERS SUPPORTED ORIGINAL ALLOCATION SUPPORTED BY CHAIRMAN WITH MINOR AMENDMENTS WHICH WOULD ALSO ENSURE THAT ALL RESOURCE ISSUES WOULD BE IN SAME WORKING GROUP.

4. DURING MORNING, SEVERAL DELEGATIONS INDICATED DESIRABILITY OF SUBCOMMITTEE CHAIRMAN GALINDO- POHL ALSO ASSUMING POSITION AS CHAIRMAN OF THE SUBCOMMITTEE II WORKING GROUP IF IT IS AGREED TO HAVE ONLY ONE WORKING GROUP. CAMEROON REP PAUL ENGO MADE STATEMENT THAT, ALTHOUGH HE RESPECTED CHAIRMAN HIGHLY, HE FELT FROM HIS OWN EXPERIENCE IN SUBCOMMITTEE I THAT SUBCOMMITTEE CHAIRMAN SHOULD REMAIN SOMEWHAT APART FROM WORKING GROUP ACTIVITIES AND KEEP HIMSELF AVAILABLE TO ASSIST IN BREAKING DEADLOCKS AND WORKING BEHIND THE SCENES. CHAIRMAN GALINDO- POHL THEN STATED HIS AGREEMENT WITH THAT ASSESSMENT AND REMOVED HIMSELF FROM CONSIDERATION.

5. SEVERAL DELEGATIONS RAISED POSSIBILITY OF CONSIDERING EITHER IN SUBCOMMITTEE II OR IN WORKING GROUP ITSELF QUESTION OF PRIORITY FOR CONSIDERATION OF ISSUES WITHIN THE WORKING GROUP. AT END OF MEETING, CHAIRMAN SUGGESTED THAT SUBCOMMITTEE TRY TO REACH EARLY AGREEMENT ON ONE UNCLASSIFIED

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WORKING GROUP OF THE WHOLE AND THAT WORKING GROUP BEGIN FUNCTIONING IMMEDIATELY. HE ALSO SUGGESTED THAT WORKING GROUP ITSELF DECIDE ISSUES OF CHAIRMANSHIP, PROCEDURES, ISSUES TO CONSIDER AND ORDER OF CONSIDERATION.

6. AT OPENING OF AFTERNOON SESSION, BYELORUSSIA ANNOUNCED THAT EASTERN EUROPEAN GROUP HAD DECIDED TO ACCEPT ONE WORKING GROUP NOW WITH POSSIBILITY THAT ANOTHER WOULD BE SET UP LATER. GROUP SHOULD BE OPEN- ENDED WITHOUT DESIG-

NATED MEMBERS. SAID THAT EASTERN EUROPEANS HAD NO CHAIRMANSHIP OF ANY SUBCOMMITTEE OR WORKING GROUP AND THUS THAT IT WOULD BE LOGICAL FOR THEM TO HAVE CHAIRMANSHIP OF THIS WORKING GROUP. SAID THAT THEY HAD AGREED ON A CANDIDATE BUT DID NOT RPT NOT STATE NAME. CHAIRMAN THEN STATED THAT CONSENSUS HAD BEEN REACHED ON ONE GROUP WITH POSSIBILITY OF ANOTHER GROUP LATER. HE ANNOUNCED THAT THE WORKING GROUP WOULD MEET ON MONDAY AND WOULD DECIDE ON ITS OWN CHAIRMAN, PROCEDURES, ETC. SUBCOMMITTEE II THEN WENT ON TO HEAR SUBSTANTIVE STATEMENTS AS HAD BEEN AGREED AT FIRST MEETING OF SUBCOMMITTEE.

7. PERU GAVE LENGTHY STATEMENT OUTLINING MANY RECENT EVENTS FAVORING COASTAL STATE JURISDICTION- EXTENSIONS OF JURISDICTION BY SEVERAL AFRICAN STATES, PRC SUPPORT, SANTO DOMINGO DECLARATION, INTER- AMERICAN JURIDICAL COMMITTEE RECOMMENDATIONS (MENTIONED THAT THE REPRESENTATIVE OF US NATIONALITY HAD AGREED), ETC. HE WENT ON TO SAY THAT SEVERAL CONCLUSIONS EVIDENT: 1958 CONVENTIONS INADEQUATE, LOS MUST STOP BEING INSTRUMENT OF POLITICAL, ECONOMIC AND MILITARY DOMINANT, MUST HAVE 200- MILE COASTAL JURISDICTION ZONE GENERALLY BUT DIFFERENT LIMITS WHERE REQUIRED BY REGIONAL CONSIDERATION AND THAT PRESENT DEFINITION OF TERRITORIAL SEA INADEQUATE. SAID NEW DEFINITION SHOULD GIVE COASTAL STATE CONTROL OVER RESOURCES, POLLUTION AND SCIENTIFIC RESEARCH BUT THAT NAVIGATION AND OVERFLIGHT WOULD BE FREE SUBJECT ONLY TO COASTAL STATE RIGHTS SPECIFIED ABOVE. ALSO GENERALLY SUPPORTED ARCHIPELAGO STATES, STATES BORDERING INTERNATIONAL STRAITS, AND STATES WITH CONTINENTAL SHELF BROADER THAN 200 MILES. ALSO SAID LAND- LOCKED STATES SHOULD GET SPECIAL TREATMENT IN INTERNATIONAL SEABED AREA AND THAT REGIONAL STATES SHOULD GET PREFERENTIAL ACCESS TO RENEWABLE RESOURCES.

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8. SENEGAL ARGUED FOR COASTAL EXCLUSIVE ECONOMIC ZONE AS IN KENYA DRAFT PROPOSAL. SAID US FISHERIES DRAFT MIGHT BE BASIS FOR NEGOTIATION IF IMPROVED AND QUESTIONED SCOPE OF " REASONABLE CONDITIONS" COASTAL STATE COULD FIX FOR ACCESS BY OTHERS. DISLIKED AUSTRALIAN/ NEW ZEALAND DRAFT SINCE IT WOULD NOT ALLOW HEAVY TAX ON FOREIGN FISHING AND FOUND SOVIET AND JAPANESE PROPOSALS COMPLETELY UNACCEPTABLE. SAID SHELF WAS ALREADY COMPLETELY UNDER NATIONAL JURISDICTION TO EDGE OF MARGIN.

9. AUSTRALIA ANNOUNCED THAT IT HAD DECIDED TO FILL IN GAP IN ITS FISHERIES PROPOSAL BY STATING THAT COASTAL STATE EXCLUSIVE ZONE SHOULD BE 200 MILES IN BREADTH.

10. KUWAIT SAID IT FAVORED 12- MILE TERRITORIAL SEA, FREE,

UNIMPEDED NAVIGATION OF STRAITS FOR VESSELS BUT NOT
AIRCRAFT, THAT SHELF CONVENTION SHOULD ELIMINATE EXPLOIT-
ABILITY CONCEPT AND RETAIN 200 METER BOUNDARY PERHAPS
WITH ADDITIONAL MILEAGE BOUNDARY AND THAT UNILATERALISM
ON FISHERIES WAS PRODUCING CHAOS.

11. IRELAND MADE A STATEMENT FAVORING HOST STATE CONTROLS
OVER ANADROMOUS FISHERIES .

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